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## THE CONVENTIONAL TARIFF SYSTEM

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### *The Origin of the Present Tariff System in Germany*

The German tariff system at present in vogue may be said to date from 1891, when Germany concluded a number of reciprocity treaties with neighboring countries. While it cannot be said that reciprocity treaties among nations, based upon mutual concessions in the matter of customs duties, were unknown before that date, yet the fact remains that the present German system marks a distinct departure in the tariff policies of European nations, which are adopting it in growing numbers.

Other nations, including our own, had negotiated reciprocity treaties from time to time; but, taking the United States as an illustration, they were mostly sporadic, like our treaty with Canada in 1855, or with Hawaii in 1875. They were more in the nature of an extraneous graft upon our tariff tree, than an organic part of it. The fact does not seem to be realized generally that it is not the treaties that supplement the German tariff, but, on the contrary, the tariff as daily applied to German imports from foreign countries is largely made up of the rates fixed by those treaties. True, France preceded Germany in the adoption of a system of reciprocal treaties, but this was the outgrowth of a policy of Napoleon III, who, largely for political reasons, aimed at removing existing tariff barriers in the international trade of France, his treaties having for their object and effect the adoption of what came to be very near free trade. No sooner had it become clear, however, that continental Europe had definitely turned its back upon free trade than the French resolved to return to autonomous tariff legislation.

It was at this point that Germany stepped into the shoes of her Western neighbor, but in adopting what was apparently the same system the Germans made it serve a new purpose: the regulation of the tariff with a two-fold object in view, protection to home industries and the lowering of tariff barriers to domestic products in foreign markets.

Briefly told,<sup>1</sup> the history of the adoption of the present tariff policy by Germany is as follows: After a brief interval of free trade, which the German empire inherited from the Zollverein in 1871, a protective tariff was adopted in 1879 in response to the demands of the manufacturing element, especially the iron and textile industries, which were hard pressed by English competition. Under this tariff German industries took a new lease of life, and in a decade reached such proportions as to completely overreach the capacity of the home markets for absorbing their output. As most of the European countries had in the meantime adopted protective tariffs, Germany's foreign trade was greatly hampered. It was felt to be necessary to secure in those countries a reduction of duties upon the products which Germany exported. It was realized, of course, that the only basis for negotiations with foreign nations looking to that end lay in mutual concessions or reductions of duty. The same interests that were instrumental in bringing about the adoption of the protective tariff in 1879 were now most active in demanding the adoption of reciprocity treaties. The protective tariff having accomplished the object for which it was intended, to enable the German industries to get on their feet, these industries now felt able to meet foreign competition at home. They were, therefore, willing to forego the advantage of continued protection at home if, in return for the advantages surrendered, they could obtain greater facilities for entering foreign markets.

The imperial government, accordingly, entered into negotiations with foreign nations, resulting in the conclusion of reciprocity treaties for a period of twelve years with seven countries: Russia, Austria-Hungary, Italy, Switzerland, Belgium, Roumania and Servia. The negotiations were conducted on the basis of the then existing tariff of 1879, which was thus greatly reduced as a result of the treaties. The new reduced tariff, made up of the rates of duty agreed upon in the seven treaties or *conventions*, came to be known as the *conventional* tariff, while the old tariff of 1879, which still remained on the statute books, was called "general" or "autonomous." The application of the conventional tariff was not confined to the seven nations with which treaties had been concluded.

<sup>1</sup>For a more complete account of the history of the adoption of the German tariff, the reader is referred to articles by the present author in the *North American Review*, March and September, 1905, and the *Review of Reviews*, December, 1905. See also Percy Ashley, *Modern Tariff History*.

It was extended to imports from all countries with which Germany had most-favored-nation treaties, and as these comprised practically all the nations with which Germany carried on commerce of any importance, the autonomous tariff of 1879 remained simply on paper except for those rates which were not affected by any of the seven treaties.

The experience of Germany under the conventional tariff was so satisfactory that before the twelve-year period for which the treaties had been concluded had expired, in December, 1903, it was resolved to continue the operation of that system. In the meantime, however, great economic changes had taken place. The quarter of a century which lay between 1879, when the autonomous tariff was adopted, and 1904, when the conventional tariff was to terminate, witnessed the great decline of the agricultural and more than proportional development of the manufacturing industries in the scale of relative importance in the empire. In 1879 the Agrarian party was an ardent advocate of free trade, because Germany depended on foreign markets as an outlet for its excess of cereals and other farm products, while at the same time the agricultural population had to depend on British and French sources for its supply of cheap agricultural implements and other articles of personal use. By 1900 the situation had undergone a radical change. Not only had Germany ceased to be an exporter of cereals, but, owing to competition of the United States, Argentina and Russia were obliged to become importers of grain. The owners of large German estates found it impossible to compete with the cheap agricultural products, not only grain, but cattle and meats, raised on virgin soil with but a slight expenditure of human labor. The cry of protection now came loudest from the agrarian camp, which also evinced great hostility to reciprocity treaties. In any event the demand was made for a revision of the tariff for the purpose of not only greatly raising the duties on agricultural products, but also of making the increased protection safe from encroachment through the conclusion of new treaties.

On the other hand, the manufacturers were for the most part satisfied with the existing duties and were even willing to go to the extent of still further reductions if, by so doing, they could secure reductions in the tariffs of foreign countries. Both sides agreed as to the necessity of a thorough revision of the tariff before the

expiration of the reciprocity treaties; the agrarians, because they wanted increased protection, the manufacturers and exporters, because they desired more scientific and up-to-date classification of commodities.

In pursuance of this practically unanimous wish, the government undertook the preparation of a draft of a tariff bill, which consumed five years of labor on the part of a special commission of thirty-two representatives of the agrarian, manufacturing and commercial interests, acting in co-operation with the tariff experts of the treasury and other government departments, in addition to 2,000 trade and technical experts, who were consulted by the commission from time to time. The tariff bill which resulted from these labors was introduced in the Reichstag by the government early in 1902, and after about ten months' deliberation, passed, with some changes, on December 25, 1902. It contained but one set of duties, with the exception of rye, wheat, barley and oats, for which both general and minimum rates were provided to prevent further reductions through reciprocity treaties.

The government immediately took up negotiations with foreign countries for new reciprocity treaties, which proved more difficult than had been anticipated. As the treaties could not all be concluded before the end of the year 1903, when the old treaties were to expire, the latter were by mutual consent allowed to remain in force for more than two additional years. On February 22, 1905, the Reichstag ratified the seven treaties concluded with the nations which had maintained reciprocal tariff agreements with Germany since 1891, and the country was given a year's time to prepare for the new conventional tariff, the inauguration of which was set for March 1, 1906. The new treaties were likewise concluded for a period of twelve years, so that the present tariff of Germany cannot be materially changed before January 1, 1918, and is likely to remain in force somewhat longer. In addition to the seven nations mentioned, commercial treaties or agreements have been concluded with Sweden, Bulgaria, Greece and the United States, and negotiations with other countries are also pending.

### *Is the Conventional Tariff System Desirable?*

The answer to that question is determined by the end for which the tariff of a country is intended. The conventional tariff system,

as at present in vogue, is the result of a natural evolution that accompanied the growth of modern industry on a large scale with its resultant expansion of international commerce. As long as the productive capacity of a nation does not exceed the consumptive capacity of its own people there is no need for a conventional tariff. Such a nation will either find it necessary to adopt an autonomous protective tariff, if competition from foreign countries should interfere with the development of its own industry, or a moderate tariff for revenue purposes only, if it has no industries to develop (*e. g.*, Turkey), or is strong enough not to fear foreign competition (*e. g.*, Great Britain). In any of these cases one tariff consisting of a single set of duties applicable alike to all foreign nations is all that will be adopted. As soon, however, as the principal industries of a country assume proportions in which the national boundaries cease to be a bulwark of protection and turn into a hindrance to the free outflow of their products to the world's markets, the single tariff ceases to satisfy the needs of the hour. The answer, therefore, is plain that a nation reaching the stage of industrial and commercial development such as characterizes the present condition of the United States must, in the interests of the very industries which have been built up with the aid of a protective tariff, take steps to bring about a removal of the obstacles which in the form of excessive duties or other restrictive legislation interfere with the circulation of its products in foreign markets. But a most cursory survey of the international field reveals the fact that similar conditions prevail in many of the countries to which we wish to gain more ready access for ourselves, and that the only way this can be done is by way of mutual concessions.

This explains why the movement for reciprocity which calls for tariff reduction is led by manufacturers not only in this but in all countries where similar conditions prevail.

### *Is the Conventional Tariff System Practicable?*

But granting the desirability of a tariff system which lends itself to the double purpose of securing necessary protection at home as well as opening the doors of foreign markets, the question arises as to whether the conventional tariff system is practicable. Here we must leave the ground of speculative reasoning and take up the question in its national aspects, viewing it from the stand-

point of concrete facts and economic and political conditions which go to make up our body politic.

There can be no question that the conventional tariff system in the hands of Germany has proved to be very efficacious and has enabled that country to achieve the ends for which it was designed. Nor can there be any doubt that Germany has fared far better with her conventional system, than France with her general and minimum tariffs. The experience of these two leaders among the nations of the European continent, as well as that of their respective followers, has led to the gradual abandonment of the general and minimum tariff system and the adoption of the conventional tariff system practically all over Europe with the exception of France and Spain, disregarding certain deviations from either system by some minor countries like Norway and Greece. But whether it could likewise prove to be best adapted to conditions prevailing in the United States depends on whether the factors which determine its success in those countries are also present in the United States.

It is impossible to speak of the advantages or disadvantages of the conventional tariff system without comparing it with the French or general and minimum tariff system, since under a dual tariff system one is the alternative of the other.

A brief description of the salient features of each will, therefore, be in place. In the conventional system there are two tariffs, a general (or autonomous) and a conventional. The former, as the name implies, is adopted by the legislative body, and is applied to the products of every nation which has no treaty or agreement to the contrary. The conventional tariff is made up of the reduced rates granted to any of the foreign nations with which reciprocity treaties or conventions have been concluded. It is a composite tariff, since each nation bargains for reductions on those articles only in which it is primarily interested, *e. g.*, in the treaties concluded by Germany, Russia naturally secured concessions mainly on agricultural products; Austria-Hungary was interested both in agricultural and in certain manufactured articles; Switzerland secured reductions of rates on embroideries, laces, certain textiles, wines, cheeses, etc.; Italy, on wines, silk, velvet, etc.; Belgium, on iron and steel products, lace, etc. The combined reductions made up the conventional tariff; in all cases where the reductions on a certain article granted to one nation exceeded the reduction on the same article

granted to another, the lowest rate granted to one was extended, under the operation of the most-favored-nation clause, to every nation which had either a reciprocity treaty with Germany or a general treaty securing to it most-favored-nation treatment.

In the French system, consisting of general and minimum duties,<sup>2</sup> both tariffs are adopted by the legislature, the minimum being applied to foreign nations either as a result of special treaties or agreements to that effect, or under the operation of the most-favored-nation principle. Under this system the concessions to be granted by France are determined by Parliament in advance.

The chief advantages of the conventional system over the general and minimum were discussed by the writer in the article on the "Double Tariff System," published in *THE ANNALS* for May, 1907. They may be briefly summarized here to preserve continuity of argument. They are as follows:

1. *Strategic*. Only one set of duties having been adopted, this tariff serves as a basis for negotiations without disclosing in advance to the other side the extent to which the first nation is willing to make concessions.

2. *Elasticity*. Representatives of two countries having but one tariff each as a basis of reciprocity and with power to make and accept concessions which in their judgment seem fair and reciprocal, have a better chance to come to an agreement than in the case when their hands are tied with a rigid dual tariff, which prescribes for each commodity the minimum rate below which they cannot go by way of concession, no matter what advantage the other side may be willing to offer in return.

3. *Stability*. The conventional tariff, as has been pointed out, consists of rates agreed upon and fixed by reciprocity treaties drawn for a number of years, the period in most of the treaties between Germany and other countries being a minimum of twelve years, after which the treaties automatically remain in force, unless abrogated by either of the parties. During the time the treaties remain in force the rates stipulated therein cannot be raised without the consent of the other party. Under the French system the treaties merely provide for the application of the minimum tariff without

<sup>2</sup>The French system is generally, though erroneously, called "maximum and minimum" in this country. While the lower rates are actually minimum, the higher are by no means maximum, since the law authorizes the government to raise the general rates in case of a tariff war with a foreign country.



fixing the rates of duty under that tariff. The government is thus free to raise the rates at any time during the life of the treaty so long as the other party to the treaty is not required to pay a higher rate than any other nation. The advocates of the French system see in this a great advantage, as it leaves the country free to revise its tariff rates whenever such course may seem advisable in its own interests. The adherents of the conventional system, on the other hand, believe that stability is of far greater value to the business community than freedom to change rates of duty at will. They argue that a business man with tariff rates definitely fixed for several years to come at home and in the foreign countries with which he is doing business, will feel less hesitation in making large outlays of capital for manufacturing plants and permanent improvements, than he would if he knew that his calculations for a profitable investment could be upset any day by changes in the tariff at home or abroad. Moreover, an increase of the minimum rates by one country having reciprocity treaties with other countries would be apt to be followed by similar action on the part of the latter in retaliation. The knowledge of this possibility would be likely to exert a restraining influence upon the country wishing to make such changes, and thus the freedom of action may prove to be more apparent than real.

As a practical corroboration of these arguments the experience of Germany and France is pointed out. France has been obliged to resort to tariff wars in a number of instances on account of the rigidity of her tariff system, and in the end was forced to yield on the vital point in her policy—the autonomous regulation of her rates, by reducing some of her duties below the minimum fixed by Parliament. Germany, on the contrary, has been uniformly successful.<sup>3</sup> Other countries had similar experience, and, therefore, found it more advantageous to adopt the German policy.

But, *comparaison n'est pas raison*, as the French say, and we cannot trust to analogy for a conclusive answer to our question. It is not so much the intrinsic merits of either system that determine its successful working as the conditions under which they are respectively applied. A knowledge of the politico-economic

<sup>3</sup>Germany, too, has had tariff wars with Russia and Spain; but in each case this was due, again, to the rigidity of the general and minimum tariff systems of the latter countries, and Russia, taught by the experience, has since abandoned the French system for the German.

apparatus which enables Germany to use the conventional tariff system with such telling effect is no less essential in forming one's judgment as to the merits of the conventional tariff system, than a familiarity with the system itself.

To begin with, Germany has a strong central government, whose control over legislation, and especially in initiating legislation, is practically as great as that of our standing committees in Congress. The government controls the appointment of the semi-official commission of representatives of the industrial, agricultural and commercial interests, which holds hearings and in other ways gathers information on which the tariff schedules are based. The tariff bill itself is drawn up by the government experts in the various executive departments, and is introduced in the Reichstag by the government at the time and under conditions which may seem most propitious from the government's point of view. While the tariff goes through these preparatory stages, the tariff and statistical experts in the government departments of the Treasury, Commerce and Foreign Affairs keep in close touch with the work of the semi-official commission as well as with the committees in the Reichstag. Their intimate knowledge not only of the needs of German commerce, but also of the strategic points in the commercial relations between Germany and the principal competing nations is continually drawn upon by the legislators. The tariff schedules are drawn up with infinite care; there is minute classification of commodities to prevent the inadvertent application of reduced rates which may be granted later by Germany to some foreign nation on a certain article, to another article imported from a third country through lack of sufficient differentiation between commodities in tariff classification.

After the tariff has been passed by the Reichstag the government appoints a commission, consisting of the department experts who have had most to do with the shaping of the tariff bill and who are best informed on the subjects to be dealt with in tariff negotiations with foreign countries. In the tariff negotiations with the United States which led to the adoption of the commercial agreement now in force, Germany was represented by ten experts from the following departments: the commercial, political and consular divisions of the Foreign Office, the Department of Commerce in the Imperial Ministry of the Interior; the Imperial Treasury Depart-

ment; the Prussian Ministry of Finance; Prussian Ministry of Agriculture; Prussian Ministry of Commerce. Most of the members of such commissions are picked men, generally economists and statisticians, whose regular duties consist in the study of the facts underlying the negotiations of tariff treaties. The personnel of the commissions, and their preparation for the treaty negotiations are matters planned well in advance, usually a matter of years of careful work.

In shaping the general or autonomous tariff the rates are purposely made higher than is thought actually necessary for purely protective purposes, with a view to their subsequent reduction in return for concessions from foreign countries. The extent to which they will be reduced is never indicated by the government in the course of the debates on the tariff in the Reichstag. That is a matter to be determined later by another body so far as it can be determined in advance of negotiations.

After the Reichstag has enacted the tariff, there is a second unofficial, yet none the less authoritative, parliament which takes up the work where the Reichstag has left it. It is the semi-official commission of thirty-two representatives of the agricultural, manufacturing and commercial interests to which reference has been made before. In preparation for the negotiation of commercial treaties the commission holds hearings behind closed doors, at which the representatives of different industries present their wishes, their needs at home, their grievances abroad; it formulates definite resolutions as to the extent to which concessions of rates at home are to be made and as to the minimum concessions that are to be accepted from the other side. When the treaty is finally negotiated on the lines laid down by this secret, semi-official business parliament, its opinion must be heard before the treaty is submitted to the Reichstag for ratification.

Such a procedure is not only absent, but could not be thought of in the United States. We might improve our equipment by strengthening the personnel of some of our government departments, by perfecting our methods of tariff-making in Congress, by closer co-ordination of the work done in the legislative, executive and business spheres. But we neither could nor would introduce certain fundamental changes which would be in conflict with the spirit of our democratic institutions.

Tariff revision in the United States is always preceded by considerable agitation and public discussion. Public opinion is crystallized and the members of Congress are expected to act in accordance with the wishes of their constituents. This would be practically impossible if we were to adopt the German or conventional tariff system, since under that system Congress would have to adopt only one set of duties, necessarily higher than those thought desirable, so as to leave ample margin for concessions in negotiating commercial treaties. The responsibility of the members of Congress to their constituents would thus be done away with, and the voters would be deprived of whatever direct control they may exercise now over tariff legislation. These objections would not apply to the general and minimum tariff system. To make this perfectly clear, let us illustrate the working of the two systems under American institutions by a concrete example. Let us assume for the sake of argument that the people of the United States had come to the conclusion that the interests of the country as a whole could best be served by a removal of the present duty on pig iron and that they elected a majority of the members of Congress pledged to that measure. If the United States adopted the French system of a general and minimum tariff, Congress would put pig iron on the free list under the minimum tariff and might retain the present duty on that article in the general tariff, or fix the general duty at some other rate. In the negotiations that would later ensue with foreign countries, the representatives of the United States would be at liberty to concede the free admission of pig iron, the one thing left to their discretion being the extent of the reciprocal concession to be accepted from the foreign country.

Under the German plan, Congress would adopt but one tariff and would have the alternative of either providing a duty on pig iron, trusting to the executive to remove that duty in the form of a concession to a foreign country, or of putting it on the free list in deference to the wishes of the people. In the latter case the end of the conventional tariff system would be defeated, as we would have no concession to offer to foreign countries in return for desired tariff reductions on our products in foreign markets. In the former case, however, it might easily happen that the will of the country would be disregarded, as its carrying out would be left to the doubtful exigencies of diplomatic negotiations.

Negotiations of a tariff treaty being in the nature of a bargain, it is natural for either side to assume the attitude of aiming to yield as little as possible and to obtain as much as it can. It might easily happen that, as a result of "successful" bargaining on the part of the delegates of the United States, only a partial reduction of duty on pig iron would be agreed upon, and the will of the majority of the people would be thus defeated by their own representatives—members of Congress and diplomatic delegates—each loyally trying to serve the best interests of the country.

In Germany and in some of the other European countries such a thing is less likely to happen, because they have managed to provide an extra-constitutional parliament, if it may be so called, which takes up the tariff where the Reichstag leaves it. By confining the Reichstag to the enactment of the general tariff only and leaving the control over the ultimate shaping of the conventional tariff to the Tariff Commission, the Germans have managed to secure all the advantages of the two dual tariff systems without incurring the disadvantages of either. The foreign nations with whom treaties are negotiated are left in the dark until the last moment as to the length Germany is ready to go in making concessions, so the strategic advantage of keeping one's cards to himself is retained to the end. At the same time the control of the people over the minimum rates, which is the chief advantage of the French system, is secured in Germany through the Tariff Commission, which consists of the representatives of all the economic interests of the country, save labor, whose interests, however, as producers are in that instance coincident with those of the manufacturers and as consumers with those of the commercial bodies.

As in Germany, so in the United States, reciprocal treaties affecting tariff rates would have to be submitted to Congress for ratification before they could become the law of the land. But in this respect also the difference of procedure is so striking as to seriously influence the efficiency of the same system in the two countries, and therefore deserves close study.

In Germany the treaty having gone through the preliminary stages described here, its ratification by the Reichstag is a foregone conclusion. There may be opposition to it from dissatisfied parties, but once the approval of a majority of the semi-official tariff commission has been secured, its ratification by the Reichstag is assured.

Of the numerous commercial treaties negotiated by the German government since the foundation of the empire, not one has ever failed of ratification in the Reichstag. This is not surprising if we consider that in Germany there is only one legislative chamber, that a simple majority of the votes cast is sufficient for the ratification of a treaty, and that such a thing as putting a treaty concluded by the government to sleep in the pigeon holes of a committee room is a thing unknown there.

Turning to the United States, we find a great contrast. If we adopted the conventional tariff system, the reciprocity treaties would have to be approved not only by the Senate but by the House, since they would contain new tariff rates which only the lower House has the power to initiate under the constitution. As the negotiation of a series of important treaties would be likely to consume considerable time, it could easily happen that by the time they reached Congress a new House might be elected to succeed the one which had enacted the general tariff. The latter being out of the way, the tariff issue would in all probability no longer figure as a political question, and the newly elected House would not, therefore, necessarily be bound by the tariff pledges which the constituents exacted from its predecessor. The reduced rates agreed upon in the treaties would virtually amount to a revision downward of a tariff but recently enacted, and its fate would be by no means certain. It would be a comparatively easy matter for a few congressmen representing different constituencies, standing together, to secure amendments to a number of rates; yet this would be tantamount to a rejection of the treaty, since it would require the reopening of negotiations with the foreign nations and a resubmittal of the newly concluded treaties to the parliaments of the respective countries.

Assuming that the treaty has successfully withstood the scrutiny and attacks of those who were hostile to it in the House, it would still be far from the goal, since under the constitution a treaty must receive two-thirds of the votes cast in the Senate in order to be ratified. It would therefore be easy for a determined minority of the Senate to defeat the treaty.

Under the general and minimum tariff system these difficulties would be greatly reduced, if not entirely eliminated. Congress having adopted a dual tariff in the first instance, the treaties negotiated would contain no new rates, and, therefore, would not require action

by the House. In the Senate, too, it would be easier to secure favorable action, since our own rates having been passed upon by Congress before, the only question to consider would be the concessions secured from the foreign countries. In view, however, of the precedent already established by Congress in connection with the McKinley tariff and followed in the Dingley tariff, it is conceivable that Congress might dispense with the submission of the treaties to the Senate. Under the Dingley tariff at present in force the President is authorized to conclude agreements with foreign countries by granting reduced rates on a small number of articles (brandies, wines, wine-lees, paintings and statuary), and to put them in effect without ratification by the Senate. Under this authority a number of commercial agreements have been concluded in the past ten years, and are still in effect without having been submitted for approval to the Senate. In conferring this authority upon the President, Congress has not parted with its rate-making power, since the reduced rates, to be subsequently granted to foreign nations on a reciprocal basis, are definitely fixed in the act. The same measure of authority could be conferred upon the executive under the proposed dual tariff system by authorizing the President to negotiate reciprocity treaties on the basis of reductions of duty not to exceed the limit set by the minimum tariff. This would insure the prompt application of the minimum tariff upon the conclusion of the negotiations of the reciprocal treaties.

Another serious difficulty would be encountered under the conventional tariff system in the United States through the application of the most-favored-nation principle to our relations with foreign countries. The most-favored-nation clause as interpreted and applied by European nations forms part and parcel of the conventional tariff system. It frequently happens that in negotiating a series of treaties with foreign nations, different rates will be agreed upon on the same products. In all those cases the countries which had accepted the higher rates get the benefit of the further concessions granted to some other nation without being required to offer additional concessions in return. In this manner all nations which have negotiated tariff treaties are treated on the same "most-favored-nation" footing, no matter what the original terms of the respective treaties were. This makes the operation of the conventional tariff system simple and fair.

Under what is known as the American interpretation of the most-favored-nation clause, however, such a procedure would be impossible. It has been the policy of the United States<sup>4</sup> not to extend gratis to other nations concessions which are made to a foreign country in return for reciprocal advantages. Under this construction of the most-favored-nation clause, which narrows down its application only to gratuitous concessions granted to some foreign country, the conventional tariff system would become very unwieldy and complex. To illustrate: If in negotiating a treaty with France we granted a 20 per cent reduction of duty on gloves, and in a treaty subsequently concluded with Germany the reductions were made 30 per cent, we would have three different rates on the same article (the general rate, the rate to France, and the rate to Germany), and it might easily happen that on some articles we would have as many rates of duty as there were treaties concluded. In the case cited here as an illustration, France would find herself discriminated against unless we extended to her gloves the reduction granted to Germany. Under our interpretation of the most-favored-nation clause, however, we could not agree to that without reopening negotiations with France for additional concessions to compensate the United States for the reduced duty on gloves. This would be manifestly impracticable, as no nation would care to negotiate reciprocity treaties with the United States if it could not be assured in advance against unexpected discriminations as a result of subsequent reductions of duty by the United States in favor of other countries. To give them that assurance (which constitutes the underlying basis of all the tariff treaties in force among European nations) we would have to depart from the interpretation of the most-favored-nation clause hitherto adhered to by the United States. The only alternative would lie in the adoption of the general and minimum tariff system in which the minimum rates can be made uniform to all reciprocating nations by an act of Congress.

### *Conclusion*

Summing the conclusions reached by the analysis of the two dual tariff systems, it can be said that the conventional system offers the facilities of superior strategic advantages in negotiating

<sup>4</sup>This policy has been more fully discussed by the writer in the *North American Review* for March, 1906.



reciprocity treaties, flexibility in mutual rate adjustment, and stability of rates during the life of the treaty. It requires, however, for its successful application the existence of an organization which combines in itself the representative character of a legislative body with the most intimate knowledge of things that comes to a board of experts, which can carry on its deliberations in executive session while enjoying the confidence of the people and speaking with an authoritative voice in the councils of the government.

It is most successful in countries in which the executive and the legislature are under one control, either because the majority of the legislative branch controls the executive, as in countries having a constitution like that of England or France, or because the executive controls the legislature more or less, as in Russia and Germany. It can be made to yield brilliant results where the forms of government and the administrative apparatus allow of a careful planning of a commercial policy, applied with deliberate precision and continuity of purpose, which comes of a stable administrative system undisturbed by political changes.

Finally, the conventional tariff system, to be practical and acceptable to the foreign nations as well as to the one which adopts it, must have as its underlying basis the unlimited application of the most-favored-nation principle, as understood and enforced among all the great commercial nations of the world, except the United States.